

that the speeches constituted a vital factor from which the policy of the African National Congress could be inferred. "It is very very important", urged Counsel, "to consider what was said at these meetings in order to determine what the policy was."

If this is correct, as indeed it appears to be, then apart from the difficulty that the "non-violent" theme was often present in speeches, a further obstacle presents itself to the prosecution.

In any criminal trial a doubt may arise on the evidence placed before the Court; but it often happens that a doubt arises because of the lack or absence of evidence before a Court. In the present instance, both these considerations apply to the case for the prosecution.

Admittedly the number of speeches to which we were referred was great - but this number fades into insignificance when the evidence of the total number of speeches made during the indictment period is brought into perspective. As will appear from the judgment of my brother Kennedy an analysis of the evidence shews that

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prosecution in support of its allegation that a nation-wide conspiracy to overthrow the State by violence existed, relied in the nett result on alleged violent utterances made by some, but not all the speakers, at 85 meetings out of a total of some 15,000 meetings which were held by the organisation during the period of the indictment - in other words, the total percentage of meetings relied on is under one percent. The analysis also reveals that there is no reliable evidence to support a finding that any form of violence was advocated in the Cape, the Orange Free State and Natal provinces. Furthermore, that even at meetings where alleged violent speeches were made, a speaker on occasion either contradicted himself or was contradicted by other speakers in advocating "non-violence" in some form or another.

In the nett result, I have available, and am accordingly confined to, an infinitesimal fraction of the total relevant and necessary material from which the prosecution asks me to infer that the African National Congress had acquired this "violent" policy.

In these circumstances I venture to suggest that it would be rash to come to a

conclusion/.....

that the speeches, said to be a "vital factor" in determining the policy of the organisation, are sufficiently representative to prove that the African National Congress possessed a policy to overthrow the State by retaliatory or any other forms of violence. I am, in this connection, not unmindful of the fact that some members of the organisation made speeches of a violent character, and that others criticised the Government, past and present, in vitriolic and extravagant terms. Nevertheless, having regard to the lack of evidence, it would be unsafe to infer therefrom, that the prosecution's contention is correct. In so far as the documents are concerned not a single one advocated the use of violence in plain language or direct terms. The prosecution however, argued that terms such as a "clash", a "conflict", a "fight to death", a "bloodbath", "supreme sacrifice" and the like, appearing in many of these documents were in the circumstances consistent only with the idea of a physical clash. Naturally if these terms are to be construed in a literal sense, there might be some merit in the suggestion;

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but I am unable to find any valid reason for doing so. It is perfectly clear that these and like terms are capable of being used and were often used in a metaphorical sense. At most, from the prosecution's point of view, it can be said that the terms were capable of a literal interpretation, but to find that they were used in that sense only and not in a metaphorical sense, would be incorrect.

With reference to speeches and documents generally, I think it is also convenient to mention here an argument addressed to the Court by Mr. Kentridge. In so far as political language is concerned, used either in public documents or from public platforms, counsel contended the Courts have been slow to infer that catastrophic results would follow from strong political language; furthermore that the Courts have been careful in the past not to curtail the right to express unpopular political views, even when expressed in strong language; furthermore, that the Courts have always made due allowance for emotional and metaphorical language. These submissions are fully supported

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by a number of authorities to which counsel referred, in particular Rex v. Roux 1936 AD.270, Pienaar v. Argus Printing and Publishing Company, 1956 (4) SA 310, and Rex v. Bunting, 1916 TPD 578 in which Wessels J. said at p.586:

"we must not judge of an article of this kind ('political') by its possible effect on a few super-sensitive individuals. We must ask ourselves what effect it is calculated to produce on the man with a normal mind and normal human experience.

I now pass on to consider the evidence relating to various campaigns and commence with the Defiance Campaign.x

This was the first campaign which the African National Congress embarked upon under its 1949 Programme of Action, and in which it was joined by the South African Indian Congress.

In this connection the Defence admitted:

"That during the year 1952, the African National Congress and the South African Indian Congress decided to conduct a campaign against unjust laws and/.....

and did conduct a campaign involving the deliberate contravention of certain laws by way of protest and in order to bring about political and social changes in South Africa"

The Defiance Campaign was directed against the following laws:

- (a) Pass Laws
- (b) Stock Limitation Regulations
- (c) Group Areas Act
- (d) The Separate Representation of Voters Act
- (e) The Suppression of Communism Act
- (f) The Bantu Authorities Act.

The Campaign was carried on in several parts of South Africa from 26th June, 1952 to December, 1952.

The evidence shows that the Campaign was to have been conducted in three stages. In the first stage Volunteers were called for and directed to contravene one or other of the laws aforementioned. Thereafter a greater number of people would have been called upon to do the same thing and finally, the third stage would

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have been reached when all the people in the Country would have been exhorted to defy these laws in order to produce a state of mass defiance of these laws throughout South Africa. Neither the second nor the third stage of the Campaign was ever reached since the Government, after some 8,000 volunteers had been arrested for defying laws in various parts of the Country, and in order to meet the situation, passed the Public Safety Act of 1953 and the Criminal Laws Amendment Act of 1953. The first Act inter alia enabled the Executive authority to declare a State of Emergency when it deemed it necessary and the second Act increased the penalties to which such defiers would become liable.

In this connection I refer firstly to the evidence of Luthuli. During his cross-examination the following emerged:

"Now the Government did take severe measures to suppress the Defiance Campaign; do you agree with that? - That is so."

"And Mr. Luthuli do you know why they took those measures? - Yes I do."

Why/.....

"Why? - They were people engaged in breaking the laws of the country and as a Government they could not just fold their hands and see people defying the laws of the country."

I also refer to the accused Mandela's article "No Easy Walk to Freedom" (Exhibit A.309). At the time Mandela was the President of the African National Congress, Transvaal Province, and a member of the National Action Committee set up to conduct the Defiance Campaign. As National Volunteer in Chief, he was in charge of all the Defiance Campaign Volunteers. Furthermore, he and the accused Sisulu had first discussed the idea of such a campaign and as a result, it eventually came up before the National Executive Committee which formally decided to conduct the Campaign on a national basis, with the assistance of the South African Indian Congress. I mention these matters to indicate the authority with which Mandela could speak on this campaign. In his article, which, was later published as his Presidential address to a Youth League Conference, Mandela said, with reference to the Defiance Campaign:

Workers/.....

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"Workers lost their jobs, chiefs and teachers were expelled from the service, doctors, lawyers and business men gave up their practices and businesses and elected to go to gaol...."

"Defiance was a step of great political significance. It released strong social forces which affected thousands of our countrymen. It was an effective way of getting the masses to function politically; a powerful method of voicing our indignation against the reactionary policies of the Government. It was one of the best ways of exerting pressure on the Government and extremely dangerous to the stability and security of the State. It imposed and aroused our people from a conquered and servile community of yes-men to a militant and uncompromising band of comrades in arms...by the end of July the campaign reached a stage where it had to be suppressed by the Government/.....

Government or it would have imposed its own policies on the country."

Mandela was question on this article; he said that the stability and safety of the State would have been endangered if the third stage of the campaign had been reached; "...we should", he said, "have created a position whereby the Government would not be able to administer certain laws, "...and he considered that when large masses were disobeying a large number of laws, the Government would have had to "capitulate".

"The Government" said Mandela "would capitulate to the people of South Africa, black and white." He stated that there would not have been any chance of such capitulation unless the third stage had been reached and then only when the organisation had stepped up "pressure". In this connection the "likelihood" of ensuing violence was canvassed by cross-examining counsel and the following emerged:

"Mandela, you said on many occasions that your understanding of Congress policy was that Congress would not initiate violence.

What/.....

What I am trying to explore with you at the moment is not whether Congress would initiate violence, but the mere likelihood of violence being initiated by whomsoever? - Well, we can't rule out the possibility of violence.... but as far as I am concerned, we say it won't come from outside."

"We would not be blamed" he continued, "because we took precautions. In fact we tried to remove even the opportunity of the Government using violence in the sense in which I have explained it, we were trying to avoid that. As I have said that was the very aim of the Defiance Campaign, to deprive the Government of the opportunity to use violence. But we did contemplate it because in the past it has happened, Africans had been shot."

Mandela added that the African National Congress regarded the Government, so far as Africans are concerned, as being ready to "beat them down and drown the country in blood."

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The Defiance Campaign was not pleaded as an overt act of treason, and in reply to questions put to him by the Court, counsel for the prosecution stated:

"I have perused the pleadings in the indictment in this case; I have also considered the evidence and it will not be our case that the Defiance Campaign, when planned, was planned to overthrow the State by violence."

If the campaign was one not "planned to overthrow the State by violence" it cannot in my opinion be relied on as affording proof of a conspiracy which had such a plan in mind, and renders the campaign of little value in any attempt to discover the policy of violence which the prosecution attributed to the organisation.

Counsel for the prosecution however, suggested that the campaign revealed the state of mind of the accused and the co-conspirators, namely to hamper and hinder the State in the administration of its laws not only in protest against these laws, but also to achieve the other aims and objects the organisation had in mind.

Much/.....

Much of this is of course common cause,
but he went on to say:-

"....Whilst we cannot prove that the African National Congress desired that people defying would resort to violence - we can say they embarked on a campaign which created a situation which would involve the masses of the people coming into conflict with the State on account of their lawless conduct and that situation they knew from their own experience could very easily result in bloodshed."

Even assuming the correctness of this contention for purposes of argument, it still does not shew that in the suggested situation the conspiratorial plan or policy was that the masses should retaliate by violence. The evidence concerning this campaign certainly does not warrant such an inference; on the contrary, the campaign, as far as it went, came to an end as a result of appropriate legislation and without any necessity on the part of the Government to rely on its forces. Whether such a necessity would have arisen if the second or third stage of the campaign/.....

campaign had been completed remains, on the evidence, a matter of conjecture and speculation. But there is in any event no evidence on which it may be said with any measure of justification, that if the Government was forced to rely on its forces, the conspiratorial plan or policy required the masses to retaliate by violence, and I shall accordingly pass on to consider the Western Areas Campaign.

During the years 1954 to 1956, the African National Congress played the leading role in campaigns which it launched against the Bantu Education Act, the Native Resettlement Act and the laws relating to the carrying of passes by Africans, in the course of which it advocated:

1. The boycott of Bantu Schools by the pupils thereof,
2. That in an attempt to frustrate the efforts of the Government under a scheme to remove the inhabitants of the Western Areas to a new township known as "Meadowlands" they should not move 'voluntarily'.

That/.....

3. That African women should not voluntarily apply for reference books.

During this period a further campaign, known as the campaign for the Congress of the People which culminated in the formulation and adoption of the Freedom Charter, was launched. These Campaigns were conducted in many parts of South Africa and constituted part of the organisations' policy of extra-parliamentary activity in protest against these laws and also a step towards the achievement of its aims and objects.

The Western Area's campaign and the campaign for the Congress of the People, were regarded by the African National Congress as the more important or major campaigns. both of which, according to Luthuli, fell within the "orbit of decided policy" namely "the Constitution of the African National Congress and its 1949 Programme of Action."

These two campaigns played an important part in the ^{the} case for prosecution and the Court was invited to take particular note of the Western Areas Campaign which, it was submitted,

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exposed the alleged "non-violent" policy of the African National Congress in its true colours and as "a vicious and brutal policy." Counsel contended that from the outset the organisation was determined to bring about a physical clash between the people of Western Areas and the Government; that the organisation sought to provoke a bloodbath in the area, regardless of the consequences to the inhabitants or the rest of the country, or the safety and security of the State; these things it was said, would, in the eyes of the organisation, have provided an example of innocent people shedding blood at the hands of a "vicious, ruthless and sadistic fascist State" and would have provided further material to "gear" the masses to action.

The evidence concerning the Western Areas Campaign will accordingly have to be considered in some detail.

The Western Areas, consisting of a number of townships on the outskirts of Johannesburg, were inhabited by some 58,000 non-European people. The wisdom or otherwise underlying the Government's decision to remove

these/.....

these people to a new township, is not an issue in this case and is not one for me to determine. It suffices to state that there were two sides to the question. On the one hand the evidence shows that overcrowding existed, resulting in the creation of slum conditions in certain parts of the townships; that rent racketeering was not unknown and that the desirability of removing people from the area had been on the agenda book of the City Council of Johannesburg for many years. On the other hand, the removal scheme entailed the loss of freehold title on the part of some two percent of the people, the loss of certain well built homes without, so it was said, fair or adequate compensation, for which reasons, as well as others, a number of outside bodies and persons joined in protesting against the removal scheme.

As early as June 1953 the Transvaal branch of the African National Congress had voiced its protest against the scheme. In that month its conference adopted a resolution calling upon the people of Western Areas to resist the scheme. Furthermore, the Working

Committee/.....

of the African National Congress submitted a report to the National Executive Committee, as a result of which this body decided at a meeting on the 18th April, 1954, that the removal scheme was one of "national importance" to the African National Congress and that a campaign should be launched against the scheme, to be conducted under the supervision of the National Executive Committee. The view was held by the Committee that the scheme contemplated by the Government was one in furtherance of its "apartheid" legislation. For this reason, it decided inter alia, to embark on the campaign. On the 8th May, 1954, the South African Indian Congress, the South African Congress of Democrats and the South African Coloured Peoples' Organisation joined in the campaign and decided with the African National Congress, to launch what was called the "Resist Apartheid Campaign" and to set aside the 26th and 27th of June 1954 as the "Western Areas day for campaigning and solidarity throughout the Country."

The National Executive Committee of African National Congress stated in its report to the 1954 Annual Conference:

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"....the Congress of the People and the Resist Apartheid Campaign are the two Campaigns on which we are going to base our future struggle...

The Resist Apartheid Campaign is an issue on which we will mobilise our forces in defence of our rights and our organisation....

The Congress of the People Campaign is a Campaign in which we will for the first time draw up a Peoples' Charter...we must therefore organise the people, politicise and activise them and lead them against the forces of fascism and reaction."

With reference to the Western Areas Campaign, the National Executive Committee decided upon the following plan: the inhabitants of the area were to be persuaded not to co-operate with the Resettlement Board which was to effect the removals and to refuse to give any information which would render the scheme easier of application; furthermore, that they should, on the day of removal (fixed for 12th February, 1955), not move/.....

move "voluntarily, and should stage a nation-wide strike.

"Our view" - said Luthuli - "was that when the people should be called upon to move, they should not do so voluntarily. They should move unwillingly under pressure of the police as representing authority... and that concurrently with the removal of Sophiatown we would call a nation-wide strike."

The accused Resha and Sisulu and one Tambo were appointed by the Working Committee to a secretariat to conduct and further the Campaign in the Western Areas.

In its endeavour to bring its plan to fruition, the African National Congress furthermore held meetings not only in the Western Areas, but in many parts of South Africa. It also made use of various newspapers which enjoyed its support to disseminate suitable propagandist material.

Generally speaking the speeches made at the various meetings, as also the propaganda, followed much the same trend as appears in a speech/.....

speech made by one Vundhla on the 26th June 1954 when the campaign was formally opened at the "Anti-Apartheid conference" held in Johannesburg. This speech was recorded in shorthand by Detective Constable Schoeman. Vundhla, who was at the time a member of the National Executive Committee together with Resha and one Ngwendu represented the African National Congress on this occasion. According to Detective Constable Schoeman, Vundhla said:

"...one of the most important tasks of this conference is its struggle against the Western Areas removal scheme and its action to defeat it...For those who follow events closely in the Western Areas it is clear that the National Party Government intends to aggravate the already strained relations between the Government and the people with its rule of violence and brutal force. The Government intends to turn the area into a bloodbath for its own political ends. On the other hand the Congresses in a series of resolutions have condemned and/.....

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and rejected the removal; it has
openly called upon the people to refuse
it...it has expressed its belief to
the people that they must remain in
the area and defend their homes...
Last Sunday the second Congress of
the African National Congress (Transvaal)
reiterated what it had said in the
past; namely to fight to the bitter
end and to mobilise all the progressive
forces at our command on a programme
of total rejection and an un-
compromising refusal of the scheme.
....In the affected areas fascism has
been displayed to the African. There
is a growing body of serious men
and women who feel that the affected
areas are the place to call the halt;
and all expect nothing than a fight
to death in defence of their homes and
properties. This is the essence
of the fight that faces Congress
today. On the one hand you have
fascist Government which believes that
the/.....

the worker must be put against the wall and destroyed, a group of people who are determined to push through the removal with force, blood and iron.

On the other hand you have a group of people who are equally determined not to move. It is an ugly situation with which to deal....It is an ugly situation but the African National Congress yields to no one in its hatred of injustice oppression and tyranny....

Let us be true to our friends in the Western Areas and be determined to rally to their assistance. I have confidence that in the following conflict Congress will come out mightier and stronger and that however difficult is the road, victory will be ours."

In his evidence Luthuli stated that Vundhla, at the time, correctly reflected the 'spirit of the African National Congress towards the removal scheme in so far as he (Luthuli) agreed that whilst it was thought that the Government was determined to go through with its scheme at all costs, the African National Congress

was/.....

was equally determined to defeat it. This view was also shared by Resha who said in his evidence that by the middle of 1954 he believed that the Government would persist in its scheme, regardless of the consequences and even if it involved violence and bloodshed. At the time he also held the view that what the Government was doing could lead to a bloodbath and that it was inciting into the people of the Western Areas 'a mood for a bloodbath', a feature which did not deter the African National Congress in its efforts, so he said, to make the Western Areas the "Waterloo" of apartheid. The African National Congress however, did everything in its power to avoid a bloodbath," he said.

The evidence of both Luthuli and Resha makes it clear that the question whether it was lawful for any individual to refuse to obey a Court order directing him to vacate any dwelling, was of no concern to the African National Congress.

The following are a few excerpts taken from Luthuli's evidence:

"Mr. Luthuli, the African National Congress of course knew that the
inhabitants/.....

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of Western Areas would be acting unlawfully if they refused to go after an order had been issued against them --- That would be correct, My Lords."

"So that the African National Congress was prepared to incite the people to resist removal by illegal action?--- My Lords, the Crown may use the word incite, but the African National Congress made it quite plain that in the course of carrying out its campaign, starting with the Defiance Campaign, it comes to a point where it violates the law. That is why the State has to take action. I have said so several times." "Yes, and if the fifty-eight thousand people respond to your call and illegally resist removal the law would be unenforcible against them, the State would be hampered in its enforcement of laws? ---That is correct."

"...if they resist removal and the State in enforcing its laws removes them forcibly, that situation may endanger the safety and security of the/.....

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the State, do you agree with that?---

I agree, My Lords, with 'may', but it is not our expectation in the light of what I have said several times."

This "expectation" of Luthuli was according to earlier evidence the following:

"We work on the basis, that certainly it was never in our minds to bring about insecurity of the State, but to bring the authority to a position where they might retreat - we never start off by saying we are anxious to bring about the insecurity of the State, that is not our desire."

"Mr. Luthuli, whether you desired it or not, surely you must have realised that that type of action would endanger the safety and security of the State? ---I have said, the possibility might be there but we have two propositions. There is a possibility, but there is also the possibility that the authorities may give in. Why do you rule out the other possibility? Would it be correct then, to say that you/....."

you would carry on regardless of that possibility? --- My Lords, we carry on our campaigns."

"Regardless of that possibility?---My Lords, we would carry on."

Elsewhere this topic was again reverted to during his cross-examination and this emerged:

"When members of the Resettlement Board come along in terms of the notice and tell them to go, what was the attitude of the African National Congress? Would they have to go?---No, the attitude of the African National Congress there was clear, they would expect the people not to go.

"Now what form of force would the law have to apply before the people had to go according to the African National Congress?----My Lords, in anticipation of what normally a Government might do, we anticipated they might send the officers of the law to compel them to go."

Who/.....

"Who were the officers of the law?---

The police."

"And if the police came, the attitude of the African National Congress was that they must not go willingly?---

Unwillingly. They must indicate their unwillingness. And if the officer of the law comes along and shows force, then there comes a point where the individual goes. He has already indicated his unwillingness to go then he may go. That was the attitude of the African National Congress."

"Or could he resist?---That was his own matter. My Lords, the African National Congress would not encourage people to resist in the manner in which they as individuals apply force. But supposing now in the process of saying, well I am not leaving my house and for some reason the policeman finds it necessary to baton charge the man to leave, and in the process he suffered, well, he chose that way."

"Is your attitude then that the

African/.....

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African National Congress's responsibility for what happened, or what could happen, ceased the moment the armed policemen arrived on the scene to affect the removal, from then on it was a matter for the individual?---I think that is correct."

In his evidence in chief, Luthuli stated that the people were not told by the organisation to what point they were required to resist - it was left to the discretion of the individual concerned. He conceded that a baton charge 'might give rise to a probability that there might have been a riot,' but added that all along the African National Congress propaganda to the people had been not to be violent under any circumstances,

"so that the probability of a riot might be there, but you still rely on the fact that people knowing our own stand in the matter, would at a point unwillingly go."

"With regard to the probabilities of people - well rioting or let us say retaliating violently did you con-

sider/.....

consider the possibility that quite apart from anything that you might have said, a man who with his wife and young children had lived for many years in his own house and was compelled to move out, might be tempted to react in a very positive manner? To react in a violent manner?---Well such a possibility is of course always latently there."

Resha, in his evidence, said that the inhabitants were expected to disobey an order to vacate even if this were to constitute an offence. In the course of his cross-examination it was put to him that, notwithstanding the accusation by the African National Congress that the Government wanted to create a "bloodbath" and to force the scheme through by violence and against the wishes of the people in Western Areas, one of the objects of the campaign was to compel the Government to remove the people by 'intimidation and force'. His reply was clear:

"My Lords, that is absolutely incorrect and unfounded."

He was then confronted with

Exhibit ORT. 29, a document found in the possession/.....

Possession of one Tambo, paragraph 3 of which reads:

"The objective of the campaign was to foster a mental attitude of non-corroboration with the Government, and to compel it to secure the removal of the people by intimidation and the employment of force....

The cross-examination then proceeded as follows:

"Now Mr. Resha, why did you want to compel the Government to secure the removal of the people by intimidation?---
--Because we wanted to demonstrate to the country that the people were unwilling to move. We were not taking it lightly. The only way by which the Government could succeed was by intimidating the people as was done long before this statement."

"And you wanted the Government to intimidate them?---Certainly."

"Certainly what?---To compel them to intimidate the people."

"In what way?---By forcing them to go,

by/.....

by bringing the police, and threatening the people that if they stuck to their rights they would be shot. That is intimidation, my Lords, by bringing 2,000 Police."

He added:

"It was, My Lords, our aim to compel the Government to use as large a force as possible in order to demonstrate clearly that this scheme was not being done because the people were willing to be removed. But it was being done to do so against the wishes of the people, and they could only do that by bringing fully armed men to help and peaceful people."

The question was then canvassed as to whether or not the aim of the organisation would not have been achieved if a single policeman or a handful of them had gone to a householder and ordered his removal under threat of force, since, so it was pointed out, the African National Congress would have been satisfied if the householder intimated an unwillingness to go.

Resha's attitude was that "if the

Government/....

did that, they would have failed; the African National Congress wanted them to use 2,000 and even a greater number." Although, despite various explanations offered by Resha, it is not clear to me why the Government would have failed in that event, the fact of the matter is that the African National Congress desired the Government to make use of a great show of force. This desire on the part of the organisation is also revealed in a review prepared by the Secretariat, of which, as has been mentioned earlier on, Resha was a member. The review was prepared after the Government had embarked on its scheme and had succeeded in removing a number of families without any trouble. The review, Exhibit A.162, was approved by the National Executive Committee. In a chapter under the heading "What must be done" - the review states:

"....The basis of such resistance"
(to apartheid) ..." to take the
form of non-collaboration of a
quantity and quality which must compel
the Government to use all its re-
sources to impose its will at any
and every stage; non-collaboration
both/.....

both from the masses and the individual, designed ultimately to strain the resources of the authorities and to create a situation more favourable to direct and positive action. The immediate task in the Western Areas is that of ensuring that resistance grows; that nobody collaborates with the authorities and that those who are to be removed to Meadowlands are removed by force. The aim should be to make it necessary to employ even more and more forces to effect removals...."

The evidence of Resha makes it clear that any show of force by the Government was regarded by the Africans as an 'act of provocation' directed towards them. It was then asked of him:

"If this is regarded as an act of provocation, would not the object of forcing the Government to use greater force be a greater act of provocation? "

"My Lord, the position as we saw it is this:

if/.....

....if the Government is forced to employ even more and more forces to affect removal, it meant to us that 4,000 or 5,000 police would be sent to Sophiatown and that the public of South Africa would fight against such a thing. I have no doubt that the European electorate in this country would say to the Government.

"Look, that is the position in which you want to affect the removal - we refuse - that so many police should be necessary and concentrated in one area to force the people who are unwilling to go, negotiate with the people."

Whatever the underlying reason might have been for this desire on the part of the organisation, the presence of a large concentration of forces, would, so it seems to me, at least have had the salutary effect of damping any desire or enthusiasm on the part of the inhabitants to resort to violent means in opposing the scheme. Resha however, notwithstanding his evidence that they desired such a great show of force and that the police should threaten and intimidate the people/.....

even including a threat to shoot them 'if they stuck to their rights' interpreted the action of the Government in having sent some 2,000 police to effect the initial removals as proof that the Government was not prepared to remove the people "without bloodshed."

"the Government" - he said - "was never prepared to do that - sending 2,000 police armed. Do you call that a preparation to remove people without bloodshed."

It was also put to him that they desired the 58,000 people, who had been subjected to months of African National Congress propaganda, to 'stay at home' on the 12th February, because the organisation realised, in those circumstances, that the arrival of 2,000 police would be the spark to set off a conflagration. He replied:

"My Lords, we wanted 50,000 people to stay at home on Saturday the 12th. We did not want the Government to send 2,000 police - in fact the Government did not tell us they were going to send 2,000 police - had we made an arrangement that 50,000 people would/.....

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would stay at home and 2,000 police would come, that would have started a conflagration. But here we were concerned with our own method of resisting removal and we had made arrangements to defeat the Government in using its brutal methods to effect removal and we succeeded in spite of the fact that we did not know that the Government was going to send 2,000 police with a view to start a conflagration."

In the Exhibit LLM.81. the 1955 National Executive Committee report, a somewhat similar claim is made. With reference to the Western Areas Campaign, it stated:

"....Thanks to the guidance of the African National Congress a bloodbath was avoided which the Government had intended to bring about by its provocative action."

This passage was canvassed with Luthuli in cross-examination. He said that if the Government was "forced" to shoot people, a bloodbath would result even if there was no violent/.....

violent retaliation by the people. If in such a process a large number of people lost their lives, one could correctly describe the situation as a "bloodbath." He added that it would be reasonable to expect that a large number of people might be killed before the removal was completed if they shewed a desire not to respond. The Government he said would naturally use force. The cross-examination then proceeded on these lines:

"Mr. Luthuli, who was building up that desire in the hearts and minds of the people not to respond to the Governments' orders?---The African National Congress... It might have been the African National Congress. Incidentally there were other groups agitating against the removals... but it was the African National Congress."

"And Mr. Luthuli, if that is so, who was provoking the bloodbath, the African National Congress or the Government?---My reply is this, it would amount to this, that the African National/.....

National Congress should never at all carry out any campaign, should never at all carry out its programme or try to resist apartheid."

He added that the organisation did not seek to provoke bloodshed because the basis on which they worked was in the expectation that when the Government met strong opposition to a scheme, it would be persuaded either to abandon it or to open negotiations. The prosecution contended however that the evidence shewed that the African National Congress did not expect the Government to negotiate at all but on the contrary that the Government would push the scheme through, regardless of the consequences. In this connection the prosecution pointed to Vundhla's speech in which he stated that an "ugly situation" had arisen because of the determination of the Government to enforce the scheme and the equal determination on the part of the organisation to defeat the Government. The prosecution also argued, and I agree, that the general trend of the speeches to which we were referred and also some of the documents used for propaganda purposes was to exhort the people 'not to move',

to/.....

to defend their homes to the last ditch, coupled with the warning that the Government would be ruthless in its methods to put the scheme through and that the people had to be prepared to make many sacrifices, even the "supreme" sacrifice, in order to defeat apartheid.

I propose by way of example, to refer to some of Resha's speeches which were taken down in shorthand and which illustrate the point made by the prosecution.

The first is a speech made by him at a meeting held in Sophiatown on 9th January, 1955. Detective Coetzee repeated Reshas' speech in the following terms:

"Sons and daughters of Africa, - today the removal of the people of Sophiatown is not merely a matter which we talk about but something which is going to happen. Before Christmas - before Christmas Eve Mr. Strijdom over the radio wished the African people a most happy Christmas. I told you that the Afrikaners are the biggest enemies of our people and I am very happy that the

detectives/.....

detectives are taking notes. Whilst Mr. Strijdom was saying happy Christmas to the Africans he issued removal notes on the same Christmas eve, that is his happy Christmas, that is the Christmas he wishes you. On the 28th of December when the people were away, Strijdom's boys were saying that you must vacate, and the Dutchman Prime Minister says that he is very happy and he wishes you happiness. But I do not want to tell you what Strijdom has said, I want to tell you what the people of Sophiatown must do and finally I am going to tell you what Congress are going to do....Now you have seen the forms sent to us during the Christmas period. Now some of the people who received these forms went to Meadowlands to see what the Government have done who loves the Natives so much. What did they see? They saw beautiful three and four roomed houses beautiful in comparison with the

howels//.....

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hovels which we live in in Sophiatown, some of them came back pleased, meaning that they will no longer be victims of the never satisfied landlords of Sophiatown. They came back pleased and they thought for the first time, me and my families will live for the first time in a three or four roomed house. We are going away from these dirty landlords to our own homes in Meadowlands.

My friends, I agree not all the landlords in Sophiatown have been good to the tenants, I agree. Therefore some tenants have every right to feel that it is freedom to go away from Sophiatown so therefore I understand their anxiety to go. So they decided to go saying that let us see and examine these houses where Africans are going to be housed.

Now are we ready to go - but before we go let us pause, let us see whether it is the land of Canaan. Yes Dr. Verwoerd in the notices he has sent

to/.....

85.

the people say that you have been given a house at 741 Fourth Street, Meadowlands. It is a very nice and we are going to live in this beautiful house, at such a date we are going to move. It is all very nice. But what are the circumstances? A nice house is one which you buy and one which is your own, but these beautiful houses do not belong to you? To every notice sent to you there is an extra note attached to the first one and this form you have to give to your boss, your boss will complete this form and send it to the Native Affairs Department who will then tell you how much rent you will have to pay.

That is what Dr. Verwoerd will say to you, you might have to pay £5 per month. If the rent is going to be one pound five, why is he ashamed to tell us? It is alright we are getting £20 but for how long are we going to get £20? Now it is alright, but what about later? You cannot pay five/.....

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